trust estate, and, in the absence of any provision to the contrary, was distributed as such. *Huber's Appeal*, 80 Pa. St. 348. Since the decision establishing this rule in Pennsylvania, however, trusts for accumulation have been declared invalid in that jurisdiction. ACT OF APRIL 18, 1853. PA. LAWS, 507. Yet an accumulation to provide for contingencies within reasonable limits may be sustained. *Howell's Estate*, 180 Pa. 515. It is, then, a reasonable presumption that the testatrix did not intend to add to the principal fund by any accumulated income. So it seems to follow that she has not attempted to dispose of the income beyond its use for the nephew's benefit. The interest of the latter was that of *cestui* of a spendthrift trust. See *Broadway Nat. Bank* v. *Adams*, 133 Mass. 170. His sole right was to compel an execution of the trust and an application of the income to his use. *Scott* v. *Nevins*, 6 Duer (N. Y.) 672, 676. Consequently, since the *cestui* had a right to have the income applied to his use, and since the testator showed no intent otherwise to dispose of it, it is submitted that the claim of the *cestui's* administrator should have been allowed, as it was in another recent case in the same jurisdiction. *In re Walter's Estate*, 72 Atl. 1062 (Pa.).

TRUSTS — CREATION AND VALIDITY — TENTATIVE TRUSTS. — The deceased opened separate bank accounts in his own name, as trustee for his several children. Each child was informed of his account with the additions made to it thereafter, and told that the money would be at his disposal upon reaching majority. When the father died, he was still in possession of the bank books and the deposits stood intact, although the children had all attained majority. *Held*, that the trusts had become irrevocable before the father's death, and therefore are not subject to the transfer tax. *Matter of Pierce*, 132 N. Y. App. Div. 465.

The doctrine of "tentative trusts" seems to be peculiar to modern New York law. Whether a particular act is intended for a declaration of trust is normally a question of fact for a jury. *Merigan* v. *McGonigle*, 205 Pa. St. 321. An early New York case, however, held the mere fact of a deposit by A in trust for B conclusive of a trust. *Martin* v. *Funk*, 75 N. Y. 134. But in Massachusetts it was held that there could be no trust without notice to the *cestui que trust*. *Clark* v. *Clark*, 108 Mass. 522. The practice of fictitious trust accounts in savings banks led to a modification of the early New York rule, and the single fact of a deposit by A in trust for B is now held to constitute only a tentative trust, revocable by A at will. *Matter of Totten*, 179 N. Y. 112. If the trust remains unrevoked and unexplained at A's death, the trust is effectual. See *Cunningham* v. *Davenport*, 147 N. Y. 43, 47. Any facts showing an intent to give the *cestui que trust* a vested interest will make the trust irrevocable from the outset. *Farleigh* v. *Cadman*, 159 N. Y. 169. This doctrine carries out the real purpose of the depositor, and the result in the principal case seems sound.

TRUSTS — RIGHTS AND LIABILITIES OF THIRD PARTIES — LIABILITY FOR INDUCING BREACH OF TRUST. — By a contract of sale, the vendee agreed to pay the purchase price to the wife of the vendor. The defendant, a creditor of the vendor, wrongfully induced the vendee to make the payment to him. Thereafter the vendee became insolvent. *Held*, that the vendor's wife can recover from the defendant damages for procuring a breach of trust. *Grant* v. *Bacon*, 127 L. T. 299 (Eng., Margate County Ct.).

It is well settled that a person who, without legal justification, induces a promisor to break his contract, thereby renders himself liable in tort to the promisee. *Lumley* v. *Gye*, 2 E. & B. 216. This principle has been much extended. Thus a spiteful interference with a man's business relations is actionable though no breach of contract results. *Quinn* v. *Leathem*, [1901] A. C. 495. And a defendant has been held answerable in damages for inducing the plaintiff's husband to leave the state in order to avoid the payment of alimony. *Hoefler* v. *Hoefler*, 12 N. Y. App. Div. 84. Although there seem to be no adjudicated cases upon the tort liability which a defendant incurs by procuring another to commit a breach

of trust, the analogy between the trust relation and the contractual relation is so close that the present decision seems eminently sound upon this point. But it is probable that the facts of the case did not present a trust relation; for a mere beneficiary under a promise made to a third party is not a *cestui que trust*. *In re Rotherham Alum & Chemical Co.*, 25 Ch. D. 103.

UNFAIR COMPETITION — COMBINATIONS — SELF-INTEREST A JUSTIFICATION. — Aiming to build up its own business at the expense of a rival, the defendant exchange passed a resolution which forbade any member from doing brokerage business for an active member of the rival exchange, under penalty of suspension or expulsion. A member of the defendant exchange thereupon notified the plaintiff, a member of the rival exchange, that he could transact no further business for him. *Held*, that the plaintiff cannot enjoin the enforcement of the resolution. *Heim* v. *N. Y. Stock Exchange*, 118 N. Y. Supp. 591 (Sup. Ct.).

Two lines of decisions support the legality of the resolution involved in the principal case. The first hold that a voluntary combination refusing to do business with outsiders is not even *prima facie* tortious. *American Live Stock Commission Co.* v. *Chicago Live Stock Exchange*, 143 Ill. 210. The second hold that although such combinations are *prima facie* tortious, they may frequently be justified by a proper motive, such as the desire for exclusive trade with customers. *Dunlap's Cable News Co.* v. *Stone*, 15 N. Y. Supp. 2. So, to obtain preferences in employment for members is sufficient justification. *National Fireproofing Co.* v. *Mason Builders' Assn.*, 169 Fed. 259. But if the object is solely to injure another, it is tortious. *Purington* v. *Hinchliff*, 219 Ill. 159, 166. In the principal case, the court properly found that the defendant's aim to build up its own business justified the resolution. The fact that a third party was thereby inconvenienced is immaterial. *National Protective Assn., etc.* v. *Cumming*, 170 N. Y. 315. As an active member of the rival exchange, however, the plaintiff could hardly claim even the neutrality of a third party. Had the resolution been enforced by heavy fines, it would have become coercive and a tort against the plaintiff. *Willcutt & Sons Co.* v. *Driscoll*, 200 Mass. 110. The plaintiff would then have been entitled to an injunction. *Willcutt & Sons Co.* v. *Driscoll*, *supra*. The *dictum* to the contrary in the principal case seems unfortunate. But suspension or expulsion is not coercion. *Booth & Bro.* v. *Burgess*, 72 N. J. Eq. 181, 196. Indeed, such measures seem essential to the discipline of any organization.

BOOK REVIEWS.

A TREATISE ON DAMAGES. By John D. Mayne. Eighth Edition. By Lumley Smith. London: Stevens and Haynes. 1909. pp. i, 766.

It is quite common to hear a law book referred to as the "leading" treatise on its subject; and the epithet is often more or less accurately applied. But no one can question it when applied to Mayne on Damages. That treatise occupies, in England, the place in the literature of damages occupied by Sedgwick in America. Published at first in 1856, a small volume of some three hundred and fifty pages, it has in fifty-four years passed through eight editions, the same number that Sedgwick has had in a little more than the same time. In his first edition, Mr. Mayne acknowledged his indebtedness to Sedgwick, but expressed the belief that there was still room for an English work. In this belief he seems to have been amply justified. At the start he attempted to collect all the English decisions; and to use American cases only when no English cases in point could be found; and in each edition since, the editors have aimed to collect all the English and Irish cases decided since the last previous edition. In each instance they express the belief that they have done so. No attempt has been made to collect American cases since the second edition, with the result that the eighth edition, a complete collection of English cases, required of the editor the consideration of some 3,800